

**Subject: 2nd Public Records Request. / SCRRA- Cal Public Record Act request, re SCRRA-MCLM contract for 217-222 MHz FCC radio frequency licenses**

**Date:** Tuesday, October 19, 2010 9:29 AM

**From:** Warren Havens <warren.havens@sbcglobal.net>

**To:** <tseko@scrta.net>

**Cc:** <sandersr@scrta.net>, Jimmy <jstobaugh@telesaurus.com>, Warren Havens <warren.havens@sbcglobal.net>

To: Mr. Perry Tseko, SCRRA records management

Cc: Mr. Bob Sanders, SCRRA administration office

Please respond within the required ten day limit to the following, sooner if possible.

Herein, "SCRRA" and "MCLM" have the meanings given in the below email of April 23, 2010. "We" means Skybridge Spectrum Foundation and our staff, including myself and Jimmy Stobaugh (cc'ed on this email).

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### Public Records Requests

A. I am by this email requesting, under the California Public Records Act as I did in the below email (of April 23, 2010), and on the same nonprofit entity basis (as to any fees): all of the same categories of records as requested in said below email, but in this request, the time period is from the date you provided (in several installments, as you know) responses to the below request, to the date you process this request.

To be clear: the below request included, and this request also includes--among the categories requested and without limitation-- the following examples:

- (i) All of the government-regulatory-- (by the FCC, Federal Railroad Administration, State of California, and other public agencies that have any current or potential regulatory authority over the subject potential use by SCRRA of the subject 217-222 MHz radio spectrum)-- assessments and other due diligence conducted by or for SCRRA on said potential spectrum use;
- and (ii) all of the the technical and operational assessments and other due diligence conducted by or for SCRRA on said potential spectrum use.
  - This item '(ii)' includes, for example, any technical study or assessment of the current use by MCLM, leasees and authorized users of MCLM, adjacent-market co-channel users of the MCLM AMTS A-block radio spectrum, nearby adjacent spectrum channel users in the MCLM market area of interest to SCRRA, adjacent spectrum use by the Navy (which has some rights to use, as shown in FCC rules, even into AMTS spectrum), rogue illegal users, FCC Section 90.259 secondary users, etc.
  - This item '(ii)' also includes, as another example, all of the records that SCRRA must have-- (if it did basic due diligence under FCC rules which any bona fide purchaser acting under law must do)-- obtained from MCLM demonstrating (and/or third parties) that show that MCLM did (or did not) comply with FCC rule requirements to construct and keep its site-

based "incumbent" FCC licensed AMTS stations in the subject SCRAA area: station equipment purchases and construction records, station antenna site leases and payment records, station operational logs and insurance records, customer records (showing actual service of "CMRS" common-carrier basis, as required in FCC rules), overlapping site coverage from the FCC AMTS-stations construction deadlines and maintained thereafter, etc.

- All documents with communications relating to said potential that SCRAA holds or controls that are to or from any other US railroad agency or private railroad company, including any that may have financial or other current or potential relations with SCRAA of any kind, including said potential spectrum use of any 217-222 MHz.
- All payments, in financial sums or other consideration, made by SCRAA or any of its agents or affiliates, to MCLM or any agent, beneficiary or affiliate of MCLM, for any reason within years 2008 to the present time.

In regards to the above, we have been informed, and hold certain evidence, that SCRAA in fact has the sort of technical and other information described in the above examples. However, we hereby seek the full information from SCRAA.

**B.** We also request here copies of all documents that SCRAA holds or controls that show or indicate any documents we requested in our first request below, or this request, that were withheld. See Code Sec. 6255. If any were withheld in our first request, or will be withheld under this request, please explain why including under Code Sec. 6255.

**C.** We also request any documents requested in the first request, the below email, that were not provided but should be provided under the California Public Records Act, including any that you may now identify after reading the examples give above.

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We request to receive each of the requested documents in electronic form, if you have them, or can covert them (without changing the substance), in that form; otherwise in paper form.

Please acknowledge receipt of this document request, and an estimate of the time it will take to fulfill the request (not more than the statutory 10 days), and identify any requirements of the California Public Records Act that this request has not satisfied, if there is any, for it to be processed and fulfilled.

Thank you again for your assistance.

Sincerely,  
Warren Havens

President  
**Skybridge Spectrum Foundation**

2649 Benvenue Ave

Berkeley CA 94704

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510 841 2220 x 30 - main office phone

510 841 2226 - 2nd office phone

510 740 3412 - fax

510 848 7797 -direct phone

----- Forwarded Message -----

**From:** Warren Havens <[warren.havens@sbcglobal.net](mailto:warren.havens@sbcglobal.net)>

**To:** [tsekop@scrra.net](mailto:tsekop@scrra.net)

**Cc:** [sandersr@scrra.net](mailto:sandersr@scrra.net); [jstobaugh@telesaurus.com](mailto:jstobaugh@telesaurus.com); Warren Havens <[warren.havens@sbcglobal.net](mailto:warren.havens@sbcglobal.net)>

**Sent:** Fri, April 23, 2010 4:55:56 PM

**Subject:** SCRRA- Cal Public Record Act request, re SCRRA-MCLM contract for 217-222 MHz FCC radio frequency licenses

To: Mr. Perry Tseko, SCRRA records management

Cc: Mr. Bob Sanders, SCRRA administration office

Mr. Tseko,

Bob Sanders referred me to you when I called today asking how to submit this request. I copy him on this email as he suggested.

Below, by "SCRRA" I mean any of the following:

- (i) the "Southern California Regional Rail Authority," or "Metrolink," or any entity participating in those two, including:
- (ii) the Los Angeles County Metropolitan Transportation Authority,
- (iii) the Orange County Transportation Authority,
- (iv) the Riverside County Transportation Commission,
- (v) the San Bernardino Associated Governments and

(vi) the Ventura County Transportation Commission.

This is a request for my nonprofit Foundation listed below for complete (non-redacted) copies of the following records:

1. All written contracts, agreements, understandings and undertakings, including all drafts, signed or authorized by any person representing SCRRA, between SCRRA and a company called Maritime Communications/ Land Mobile LLC --(sometimes also called "MCLM", or any company with a similar name, or any agent of said company: herein together called "MCLM")-- to obtain use of or title to any FCC-licensed radio spectrum in the 217 to 222 MHz range.

In this regard: I attach a Notice from the FCC that describes one of these documents: There must be more than one such documents, including preliminary ones, drafts, exhibits, corollary documents, etc.

2. All correspondence and communications of any kind that relate to item '1' above between SCRRA and MCLM.

3. All correspondence and communications of any kind that relate to item '1' and '2' above between SCRRA and: (i) the Federal Communications Commission (the "FCC"), (ii) any other federal agency including the Federal Railroad Administration, or (iii) any State of California agency, employee of any State of California agency, or member of the State of California legislature.

4. All documents of any kind (dealing with FCC, legal, technical, economic, public policy and relations, or other issues) relating to items '1', '2' and '3' above (whether or not they are correspondence and communications), or relating to use or potential use or possession by SCRRA of any 217-222 MHz radio spectrum, and any other radio spectrum, whether for Positive Train Control or some other use or application.

Please provide documents under items 1, 2, and 3 above first, and item 4 later (including since items 1-3 are more specific and should be easier to quickly location in full).

Our Foundation is a nonprofit tax-exempt private operating foundation in the field of Intelligent Transportation Systems ("ITS"). (Among other activity, we provide charitable gifts and collaboration to State of California employee researchers in ITS matters.) I attach some information in that regard. However, our Foundation will pay fees if you determine fees must or should be charged under applicable law. If the estimated fees exceed \$500, please first provide to me an estimate in advance.

We request to receive each of the requested documents in electronic form, if you have them in that form; otherwise in paper form.

Please acknowledge receipt of this document request, and an estimate of the time it will take

to fulfill the request, and identify any requirements of the California Public Records Act that this request has not satisfied, if there is any, for it to be processed and fulfilled.

Thanks for your assistance.

Note:

Jimmy Stobaugh is also, along with me (the undersigned), an authorized representative of the requester Foundation on this request. I copy him on this email.

Sincerely,  
Warren Havens

President  
**Skybridge Spectrum Foundation**

2649 Benvenue Ave

Berkeley CA 94704

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# PUBLIC NOTICE

Federal Communications Commission  
445 12<sup>th</sup> Street, S.W.  
Washington, D.C. 20554

News Media Information: 202 / 418-0500  
Fax-On-Demand: 202 / 418-2830  
TTY: 202 / 418-2555  
Internet: <http://www.fcc.gov>  
<ftp.fcc.gov>

DA 10-556  
Released: March 29, 2010

MARITIME COMMUNICATIONS/LAND MOBILE LLC AND SOUTHERN CALIFORNIA  
REGIONAL RAIL AUTHORITY FILE APPLICATIONS TO MODIFY LICENSE AND ASSIGN  
SPECTRUM FOR POSITIVE TRAIN CONTROL USE, AND REQUEST PART 80 WAIVERS

## PLEADING CYCLE ESTABLISHED

WT Docket No. 10-83

Petition to Deny/Comments Due: April 28, 2010

Oppositions/Reply Comments Due: May 10, 2010

Replies to Oppositions: May 17, 2010

The Wireless Telecommunications Bureau has received applications filed by Maritime Communications/Land Mobile, LLC (MC/LM) and Southern California Regional Rail Authority (SCRRA) relating to the license for Automated Maritime Telecommunications System (AMTS) station WQGF318.<sup>1</sup> The first is an application filed by MC/LM to modify the license for station WQGF318 by changing the regulatory status of a geographically partitioned portion of the license area from commercial mobile radio service (CMRS) to private mobile radio service (PMRS) (modification application).<sup>2</sup> The second is an application filed by MC/LM and SCRRA to assign that partitioned portion of the WQGF318 license area to SCRRA, accompanied by a request for waiver of several Part 80 Rules, to permit SCRRA to use the spectrum for positive train control (assignment application).<sup>3</sup>

<sup>1</sup> AMTS stations traditionally provide automated ship-to-shore communications similar to a cellular phone system for tugs, barges, and other maritime vessels. See Amendment of Parts 2 and 80 of the Commission's Rules Applicable to Automated Maritime Telecommunications Systems (AMTS), *First Report and Order*, GEN Docket No. 88-732, 6 FCC Red 437, 437 ¶ 3 (1991). In recent years, the Commission has amended its Part 80 Rules to provide AMTS licensees with the flexibility to provide service to units on land, both CMRS and PMRS. See generally *In the Matter of MarITEL, Inc. and Mobex Network Services, LLC*, WT Docket No. 04-257, *Report and Order*, 22 FCC Red 8971 (2007).

<sup>2</sup> FCC File No. 0004153701 (filed Mar. 8, 2010). WQGF318 is the geographic license for AMTS frequency block A in the Southern Pacific market (AMT006).

<sup>3</sup> FCC File No. 0004144435 (filed Mar. 11, 2010).